

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/IB/2004/003220

International filing date (day/month/year)
04.10.2004

Priority date (day/month/year)
07.10.2003

International Patent Classification (IPC) or both national classification and IPC
C08G71.00

Applicant
CLARIANT INTERNATIONAL LTD

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

10/575153

International application No.
PCT/IB2004/003220

AP20 REC U PCT/PTO 06 APR 2006

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-12
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43*bis*.1 and 70.10)

and / or

2. Non-written disclosures (Rules 43*bis*.1 and 70.9)

see form 210

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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

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AUTHORITY (SEPARATE SHEET)**

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Cited documents:

- D1: DE 100 04 321 A (WACKER CHEMIE GMBH) 9 August 2001 (2001-08-09)
D2: WO 03/080007 A (CIBA SC HOLDING AG ; CHROBACZEK HARALD (DE); ELDER STEWART TODD (US);) 2 October 2003 (2003-10-02)
D3: WO 03/029351 A (CHROBACZEK HARALD ; LINDMAIR GABRIELE (DE); CIBA SPEZIALITAETENCHEMIE) 10 April 2003 (2003-04-10)
D4: US-A-5 618 525 (BUENNING EINHARD) 8 April 1997 (1997-04-08)
D5: DE 102 14 290 A (GE BAYER SILICONES GMBH & CO) 9 October 2003 (2003-10-09)
D6: US-A-5 725 736 (SCHROEDER WEN ZYO ET AL) 10 March 1998 (1998-03-10)
D7: WO 02/10259 A (SOCKEL KARL HEINZ ; LANGE HORST (DE); WAGNER ROLAND (DE); FIRSTENBERG) 7 February 2002 (2002-02-07)
D8: US-B-6 482 9691 (HELMRICK LIZA RUTH ET AL) 19 November 2002 (2002-11-19)

1. Novelty (Art. 33 (2) PCT)

Each of cited documents D1 to D4 discloses quaternized polysiloxanes as specified in detail in present independent main claim 1 (for relevant passages, see the corresponding International Search Report).

Consequently, each of said documents D1 to D42 anticipates the subject matter of present claim 1.

The same considerations also relate to the additional features of the following claims 2 to 12 when taking into account the full disclosure of each of said documents D1 to D4.

Therefore the subject matter of present application is not new in view of the disclosure of each of said documents D1 to D4.

2. Inventive Step (Art. 33 (3) PCT)

Providing an amended main claim which meets the requirements of Art. 33 (2) PCT, the applicant should relate the distinguishing feature to a surprising (unexpected) technical effect or make credible or plausible that the distinguishing feature is not derivable from the prior art teaching (Art. 33 (3) PCT).

3. Miscellaneous

In order to improve the understanding and legibility of the application, in the European regional phase, if any, the applicant is invited to identify the documents D1 to D4 in the description additionally and briefly discuss the relevant background art disclosed therein.

Document D5 may become relevant in any subsequent German national proceedings and was forwarded for information purposes only.

When filing amendments, any undue extension of the scope of the application

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should be avoided.